



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

NORTHERN ILLINOIS

INSURANCE AGENCY, INC.,

Renewal Applicant.

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Case No. 15-0430264C

ORDER REFUSING TO RENEW **A BUSINESS ENTITY INSURANCE PRODUCER LICENSE**

On April 30, 2015, the Consumer Affairs Division ("Division") submitted a Petition to the Director alleging cause for refusing to renew Northern Illinois Insurance Agency, Inc.'s business entity insurance producer license. After reviewing the Petition, the Investigative Report, and the entirety of the file, the Director issues the following findings of fact, conclusions of law and order:

FINDINGS OF FACT

1. Northern Illinois Insurance Agency, Inc. ("Northern Illinois"),¹ a.k.a. Northern Underwriting Managers, Inc., is an Illinois business entity producer with a business address of 6090 Strothmoor Drive,² Suite 3, Rockford, Illinois 61107.
2. Northern Illinois has been licensed by the Department of Insurance, Financial Institutions and Professional Registration ("Department") as a business entity insurance producer since May 6, 2013 (license number 8290679). Its license expires on May 6, 2015.
3. Todd Fendler ("Fendler") is the owner and designated responsible licensed producer for Northern Illinois and the President of Northern Insurance Group Companies, Inc., Northern Illinois, and Northern Underwriting Managers, Inc.
4. On March 6, 2015, Northern Illinois submitted its electronic renewal application for a non-resident business entity producer license ("Renewal Application") to the Department; Fendler indicated on the Renewal Application that he was the authorized submitter for

¹ In the renewal application and elsewhere, the company is listed as "Northern Illinois Ins Agency, Inc."

² Northern Illinois' letterhead lists the street address as "Strathmoor," but in its application to renew its business entity insurance producer license, Northern Illinois lists its street address as "Strothmoor."

Northern Illinois. In response to Background Question Number 2 on the Renewal Application, regarding whether the entity or any owners, partners, officers or directors of the entity had been named or involved as a party in an administrative proceeding, Northern Illinois indicated "yes" and attached documents showing an administrative action against Fendler and against Northern Illinois in their home state of Illinois. *See In the Matter of the Revocation of Licensing Authority of: Todd Fendler and Northern Illinois Ins. Agency, Inc.*, State of Illinois, Department of Insurance, Hearing No. 14-HR-0867 (currently set for hearing on May 19-21, 2015).

Illinois Administrative Action

5. In its Order of Revocation, dated July 14, 2014, the Illinois Department of Insurance ("Illinois Department") alleged various grounds to revoke Fendler's and Northern Illinois' licenses. *In the Matter of the Revocation of Licensing Authority of: Todd Fendler and Northern Illinois Ins. Agency, Inc.*, State of Illinois, Department of Insurance, Hearing No. 14-HR-0867 (currently set for hearing on May 19-21, 2015). The Order of Revocation provides that it "shall take effect 30 days from the date of mailing but shall be stayed if within the 30-day period a written request for hearing is filed with the Director." *Id.* Fendler and Northern Illinois, through their attorneys, filed such a notice. The Order of Revocation also assesses a civil penalty of \$100,000.00, *id.*, the maximum allowed by Illinois law, Section 5/500-70(d) of the Illinois Insurance Code (215 ILCS 5/500-70(d)), which has also been stayed since Fendler and Northern Illinois filed a written request for hearing.

6. The Order of Revocation alleges the following grounds for revocation of Fendler's and Northern Illinois' license:

a. Fendler and Northern Illinois violated various Illinois insurance laws and rules, and that constitutes grounds for revocation and levying a civil penalty under Section 5/500-70(a)(2) of the Illinois Insurance Code (215 ILCS 5/500-70(a)(2)).

i. The Illinois Department reviewed Fendler's and Northern Illinois' ACH transfers (electronic payments) from consumer accounts. Fendler and Northern Illinois could not provide documentation for some of the transfers and some of the transfers reflected charges for service fees that would require service fee agreements, which were not provided. Some service fee agreements were provided, but they did not clearly specify the amount or extent of the fees or when they would be charged to the consumer and they did not bear the consumers' signatures where required. As to one consumer in particular, an inspection fee was added, but it was dated the effective date of the policy, so advance written disclosure about the fee could not have been given. This violates Section 5/500-80(e)(1) and (2) of the Illinois Insurance Code (215 ILCS 5/500-80(e)(1) and (2)).

ii. Fendler and Northern Illinois maintain two bank accounts into which

they deposit premiums. Those accounts were not properly labeled "Premium Fund Trust Accounts," in violation of 50 Ill. Adm. Code 3113.40(b).³

iii. Fendler and Northern Illinois deposited, via electronic transfer of consumers' funds, premium payments into an operating account, in violation of 50 Ill. Adm. Code 3113.40(e).

iv. When premium payments are deposited into an operating account, the operating account is deemed a Premium Fund Trust Account under 50 Ill. Adm. Code 3113.40. Fendler and Northern Illinois deposited premiums into this account, but they made numerous non-premium debit withdrawals from the account. Because they used an account into which they deposited premiums as an operating account, they violated 50 Ill. Adm. Code 3113.40(i).

v. Fendler and Northern Illinois were unable to identify electronic transfers of premium payments from consumers going into their operating account and match those premium payments to specific consumers. As a consequence, Fendler and Northern Illinois were unable to maintain a cash receipts register, all in violation of 50 Ill. Adm. Code 3113.50(d).

b. Fendler and Northern Illinois violated various Illinois insurance rules and demonstrated incompetence and financial irresponsibility in the conduct of business in the state of Illinois, and that constitutes grounds for revocation and levying a civil penalty under Section 5/500-70(a)(2) and (8) of the Illinois Insurance Code (215 ILCS 5/500-70(a)(2) and (8)).

i. Fendler and Northern Illinois made commission withdrawals from their account, but could not match those commission withdrawals to the premiums previously deposited and the consumers who paid those premiums, in violation of 50 Ill. Adm. Code 3113.40(h)(3) and 50 Ill. Adm. Code 3113.50(e)(7), and Fendler's and Northern Illinois' commission withdrawals were not supported by written records, in violation of 50 Ill. Adm. Code 3113.50(e)(6). Fendler and Northern Illinois violated Illinois insurance rules and demonstrated incompetence and financial irresponsibility.

ii. Fendler and Northern Illinois failed to maintain a cash disbursement register in violation of 50 Ill. Adm. Code 3113.50(e) and, as a consequence, failed to maintain positive running balances in their check stubs or disbursement register after each entry in violation of 50 Ill. Adm. Code 3113.50(h). When Fendler and Northern Illinois tried to recreate such a register for the benefit of the Illinois Department (which they called a

³ Missouri law, in contrast, does not require insurance producers to place premiums into a separate account, with the exception of title producers. See § 381.022.2.

“Running Balance”), that Running Balance showed 11 negative balances, in violation of 50 Ill. Adm. Code 3113.50(h). Fendler and Northern Illinois violated Illinois insurance rules and demonstrated incompetence and financial irresponsibility.

c. Fendler and Northern Illinois violated various Illinois insurance laws and rules, misappropriated or improperly withheld premiums, and demonstrated incompetence, untrustworthiness, and financial irresponsibility in the conduct of business in the state of Illinois, and that constitutes grounds for revocation and levying a civil penalty under Section 5/500-70(a)(2), (4), and (8) of the Illinois Insurance Code (215 ILCS 5/500-70(a)(2), (4), and (8)).

i. The Illinois Department reviewed Fendler’s and Northern Illinois’ Premium Fund Trust Account to determine if the consumer premiums that they had collected were held in a fiduciary capacity before being forwarded to an insurance company. The Illinois Department’s review showed that from April 3, 2013 to September 22, 2013, the balance in Fendler’s and Northern Illinois’ Premium Fund Trust Account was deficient on 118 days; 42 premiums were collected from consumers during this time frame. The account deficiencies ranged from \$364.55 to \$78,067.51 with an average deficiency of \$25,559.98. Fendler and Northern Illinois misappropriated money required to be held in a fiduciary capacity under 50 Ill. Adm. Code 3113.40(j). Fendler and Northern Illinois violated an Illinois insurance rule and demonstrated incompetence, untrustworthiness, and financial irresponsibility.

ii. Fendler and Northern Illinois collected premiums from a consumer, as follows: \$3,748.00 received on September 3, 2013 and \$5,640.00 received on November 8, 2013. As of June 23, 2014, Fendler and Northern Illinois had not forwarded this premium money to an insurance company. By not forwarding premiums, Fendler and Northern Illinois improperly withheld money required to be held in a fiduciary capacity in violation of Section 5/500-115(a) of the Illinois Insurance Code (215 ILCS 5/500-115(a)). Fendler and Northern Illinois violated an Illinois insurance law and demonstrated incompetence, untrustworthiness, and financial irresponsibility.

d. Fendler and Northern Illinois withheld, misappropriated or converted monies in the course of doing insurance business, used dishonest practices, and demonstrated incompetence, untrustworthiness and/or financial irresponsibility in the conduct of business in the state of Illinois, and that constitutes grounds for revocation and levying a civil penalty under Section 5/500-70(a)(4) and (8) of the Illinois Insurance Code (215 ILCS 5/500-70(a)(4) and (8)).

i. Fendler and Northern Illinois sent an invoice to a consumer, who paid a \$1,003.00 premium, which was posted as cashed at the consumer’s bank on

November 25, 2013 and endorsed to Fendler's and Northern Illinois' account. But Fendler and Northern Illinois did not forward the premium to the insurer, and the insurance company cancelled the consumer's policy on December 5, 2013. Fendler and Northern Illinois withheld, misappropriated, or converted money in the course of doing insurance business, used dishonest practices, and demonstrated untrustworthiness and financial irresponsibility.

ii. Fendler and Northern Illinois submitted an application for coverage for a consumer with a premium of \$7,332.00 even though the consumer already had a personal property policy in effect with a different insurer written through Northern Illinois. The consumer denied signing the application and alleged that Fendler and Northern Illinois had improperly caused the consumer's mortgage lender to withdraw a payment from the consumer's escrow account for \$9,050.00 on October 1, 2013. When the consumer notified the insurance company of the pre-existing coverage, the second insurance company flat cancelled the second, duplicative policy. Fendler and Northern Illinois credited the consumer's bank account for \$9,050.00 on April 17, 2014. Fendler and Northern Illinois withheld, misappropriated, or converted money in the course of doing insurance business, used dishonest practices, and demonstrated incompetence and untrustworthiness.

e. Fendler and Northern Illinois intentionally misrepresented the terms of an actual or proposed insurance contract for insurance, used dishonest practices, and demonstrated untrustworthiness and financial irresponsibility, and that constitutes grounds for revocation and levying a civil penalty under Section 5/500-70(a)(5) and (8) of the Illinois Insurance Code (215 ILCS 5/500-70(a)(5) and (8)).

i. Fendler and Northern Illinois charged a consumer \$1,785.00 for workers compensation coverage for an employee and debited that amount from the consumer's account on December 14, 2012. On December 27, 2012, Fendler and Northern Illinois issued a check to the insurer for \$709.00. When the consumer became aware of the difference in premium paid, Fendler and Northern Illinois claimed that there was a "minimum earned premium" for workers compensation policies, so even if the formula did not show the premium to be \$1,700.00, the policy had to be rounded up to the minimum premium charge. Fendler and Northern Illinois processed a \$798.00 refund to the consumer on June 3, 2013. Fendler and Northern Illinois intentionally misrepresented the terms of an actual or proposed insurance contract for insurance, used dishonest practices, and demonstrated untrustworthiness and financial irresponsibility.

f. Fendler and Northern Illinois demonstrated untrustworthiness and financial irresponsibility in the conduct of business in the state of Illinois, and that constitutes grounds for revocation and levying a civil penalty under Section 5/500-70(a)(8) of the

Illinois Insurance Code (215 ILCS 5/500-70(a)(8)).

i. Fendler and Northern Illinois provided a certificate of liability insurance dated June 7, 2013 to the brokering agent for a policy to provide to a consumer. The Illinois Department contacted the insurer, who explained that the certificate was no longer valid. The consumer had a policy in effect from July 18, 2013 to February 28, 2014, but the policy number listed on the certificate was incorrect and the certificate was issued before the policy was issued. Similarly, Fendler and Northern Illinois provided another certificate of liability insurance as to another consumer, and the insurer indicated that the policy number, the insurer name, and the effective date on the certificate were all incorrect. By providing invalid certificates of insurance, Fendler and Northern Illinois demonstrated untrustworthiness and financial irresponsibility.

Missouri Complaints

7. In August 2014, the Department received a complaint from Ron Tagge ("Tagge") with the Ron Tagge Insurance Agency, Inc. Tagge complained that Northern Illinois issued a false insurance binder for a Tagge client, Intercounty Excavation, Inc. ("Intercounty"), when no insurance had actually been secured. On or about June 28, 2014, Tagge, on behalf of Intercounty, paid an \$8,500.00 down payment and Northern Illinois thereafter withdrew automatic premium installment payments from Tagge's account. Tagge indicated that he had been told that QBE Insurance was writing the policy, but he contacted QBE and the company indicated that the policy number that Northern Illinois had provided was a submission number, not a policy number, and that QBE had declined to quote the policy. Tagge's client, Intercounty, had consequently been without coverage for approximately two months.

8. Given this information, on August 27, 2014, Tagge sent a demand letter to Fendler and Northern Illinois, indicating that they had 48 hours to wire back the \$14,119.34 that Tagge's account had been charged in premium for a policy that did not exist, or Tagge would report Fendler and Northern Illinois for wire fraud. Tagge got his \$14,119.34 back on August 28, 2014.

9. In September 2014, the Department received a complaint in the form of a letter dated September 15, 2014 from an individual named Sejal Patel ("Patel"), with SUJVL, Inc. ("SUJVL"). Patel asserted that he had purchased a United States Liability Insurance Company ("USLI") insurance policy for a commercial property through his agent, Mahendra Gupta ("Gupta"), and Gupta's general agent, Northern Illinois. Patel indicated that on September 3, 2013, he paid \$3,250.00 as a down payment on a total premium of \$11,500.00 to Northern Illinois, and that on December 11, 2013 Northern Illinois withdrew another \$3,196.62 payment from SUJVL's bank account.

10. Patel explained that although these two payments were made to Northern Illinois,

neither he nor his agent, Gupta, ever received a payment schedule or a policy. Patel indicated that his company received notices from USLI dated February 14, 2014 for cancellation of two policies (though Patel had only attempted to purchase one) because payments had not been made to USLI. USLI threatened to sue Patel and SUJVL for collection of the balance of the earned premium.

11. Gupta's attorney contacted USLI, who offered SUJVL the options of either paying again in part for insurance coverage or cancelling flat. Patel and SUJVL elected to cancel flat, even though that left a gap in coverage, and to terminate any relationship with Northern Illinois and USLI. Patel received a check for \$3,250.00 from Northern Illinois around this time, but has not yet received reimbursement for the other \$3,196.62 payment made to Northern Illinois for insurance coverage that Patel never received.

12. On March 30, 2015, the Department received a complaint from Marvin Greenberg ("Greenberg"). Greenberg had purchased a Starr Indemnity & Liability Co. policy through Fendler and Northern Illinois and on January 3, 2014, and he paid a premium of \$12,837.00 plus Northern Illinois' \$250.00 fee. On March 21, 2014, Greenberg received a check for \$3,211.00 from Northern Illinois for a refund for overpayment of premium. Greenberg noticed, however, that the policy declaration page indicated a premium of \$9,081.00. Northern Illinois' refund check for overpayment of premium was therefore \$295.00 short ($\$12,587.00 - \$9,081.00 = \$3,506.00$ and $\$3,506.00 - \$3,211.00 = \$295.00$). Greenberg wrote to Northern Illinois twice in January 2015 to explain the discrepancy that he found and to request an additional refund for overpayment of \$295.00. Greenberg did not receive a response.

13. In February 2015, Greenberg wrote to the Illinois Department regarding his \$295.00 overpayment. Northern Illinois responded to the Illinois Department that the \$295.00 charge was for inspection of the property. The application for insurance contained no mention of any inspection fee, nor did the policy itself, and Greenberg indicated that he never received an invoice for such an inspection. Since the property was located in Missouri, the Illinois Department encouraged Greenberg to contact the Department, which he did.

14. In April 2015, the Department received a complaint from Kiet Le ("Le"). Le wanted to obtain insurance and the annual premium was supposed to be \$13,951.00. But Northern Illinois withdrew money from Le's bank account on May 21, 2014 for \$4,972.00; on May 22, 2014 for \$1,338.56; and on June 26, 2014 for \$13,090.00, for a total of \$19,400.56 – a difference of well over \$5,000.00 compared to the annual premium.

15. The Division contacted the insurance company, Hartford Insurance Company ("Hartford"). Hartford explained that it had received two payments for Le, on July 10, 2014 for \$4,654.04, and on August 11, 2014 for \$1,284.21, which totaled \$5,938.21. As noted, however, the full premium was \$13,951.00, so Northern Illinois and Fendler still had \$8,012.79 that was supposed to be paid to Hartford for premium, as well as over \$5,000.00 in money that Northern Illinois and Fendler charged Le above and beyond the actual amount of

premium (\$19,400.56-\$13,951.00=\$5,449.56). Hartford ultimately cancelled the policy for non-payment on October 25, 2014.

16. On February 18, 2015, Northern Illinois returned \$6,861.79 to Le.

Illinois lawsuit

17. On April 2, 2015, Fendler and Northern Illinois were sued in federal district court.⁴ *Shankar B. ("Sam") Patel, d/b/a Economy Inn Motel, et al. v. Todd J. Fendler, Patty Studer, Susan K. Fendler, and Northern Illinois Insurance Agency, et al.*, United States District Court, Southern District of Illinois, Case No. 15-CV-366. There, Shankar B. ("Sam") Patel ("Sam Patel") and the other plaintiffs allege that defendants, including Fendler and Northern Illinois, made fraudulent and unauthorized ACH debits from their accounts to pay for unauthorized policy renewals with Fendler and Northern Illinois. Plaintiffs are seeking over \$150,000.00 in damages.

Division Inquiries and Subpoena Conference

18. Dana Whaley ("Whaley"), Special Investigator with the Division, was assigned to investigate the various complaints against Fendler and Northern Illinois. On September 26, 2014, Whaley sent an inquiry letter via first class mail through the United States Postal Service, postage prepaid, to Northern Illinois, attention Fendler, at Northern Illinois' address of record, inquiring about the Patel/SUJVL complaint. Whaley asked Fendler and Northern Illinois to respond to Patel's allegations and provide that response within 20 days of the postmark of the letter.

19. The United States Postal Service did not return the September 26, 2014 Division inquiry letter to the Division as undeliverable; therefore, it is presumed delivered.

20. On December 29, 2014, the Division contacted Northern Illinois by phone; Whaley spoke with an individual named Patty Studer ("Studer") who identified herself as Fendler's assistant. Whaley informed Studer about the Division's September 26, 2014 letter to which neither Fendler nor Northern Illinois had ever replied. Studer provided her e-mail address, and Whaley e-mailed the September 26, 2014 letter and Patel's complaint to her and provided a new response date of January 15, 2015.

21. On January 6, 2015, Whaley followed up with Studer regarding the December 29, 2014 e-mail and its attachments (the September 26, 2014 inquiry letter and Patel's complaint). Whaley asked Studer to have Fendler call her. He did not do so.

22. Neither Fendler nor Northern Illinois responded to the Division's September 26, 2014 inquiry letter in a timely way, and neither Fendler nor Northern Illinois demonstrated

⁴ The docket sheets for the case do not yet show service on any defendants.

reasonable justification for any delay.

23. On March 27, 2015, the Department served a subpoena duces tecum by certified mail on Fendler and Northern Illinois, ordering them to produce records, to include bank records and complete files and complete financial transaction history for Intercounty and Patel, by April 10, 2015.
24. The Department received the certified mail delivery receipt (U.S. Postal Service Form 3811, known as the "green card") bearing a signature and indicating delivery of the subpoena duces tecum to Northern Illinois and Fendler.
25. Also on March 27, 2015, the Department served a subpoena by certified mail on Fendler and Northern Illinois, ordering them to appear before the Director or his appointee on April 14, 2015 for an investigation conference under oath ("subpoena conference").
26. The Department received the certified mail delivery receipt (U.S. Postal Service Form 3811, known as the "green card") bearing a signature and indicating delivery of the subpoena on April 9, 2015 to Northern Illinois and Fendler.
27. On April 1, 2015, the Whaley sent a Division inquiry letter via first class mail through the United States Postal Service, postage prepaid, to Todd Fendler, Northern Illinois, at Northern Illinois' address of record, requesting information about the Greenberg complaint. Whaley asked Fendler and Northern Illinois to respond to Greenberg's allegations and provide that response by April 21, 2015.
28. The United States Postal Service did not return the April 1, 2015 Division inquiry letter to the Division as undeliverable; therefore, it is presumed delivered.
29. On April 9, 2015, Studer contacted Whaley by phone and indicated that Fendler was out of the country and would not be stateside at the scheduled time for the subpoena conference, April 14, 2015. Studer provided Fendler's schedule to Whaley, and Whaley rescheduled the conference as a convenience to Fendler for April 21, 2015 at 1:30 pm, a time that Studer represented would work with Fendler's schedule. Whaley also extended the deadline for the documents to be produced pursuant to the subpoena duces tecum to April 17, 2015.
30. On April 9, 2015, the Department served another subpoena on Fendler and Northern Illinois, again by certified mail, rescheduling the subpoena conference for April 21, 2015 at 1:30 pm.
31. The Department received the certified mail delivery receipt (U.S. Postal Service Form 3811, known as the "green card") bearing a signature and indicating delivery of the subpoena on April 13, 2015 to Northern Illinois and Fendler.

32. On April 14, 2015, Whaley received an e-mail from Fendler attaching documents from Northern Illinois' Patel/SUJVL file. Whaley e-mailed Fendler back and indicated that his presence was still expected at the April 21, 2015 subpoena conference.

33. Also on April 14, 2015, Fendler e-mailed Whaley and indicated that the Tagge complaint "was answered in full to the Dept. of Kansas."

34. On April 15, 2015, Whaley responded to Fendler's e-mail and indicated that Fendler had to produce the full Tagge file pursuant to the subpoena duces tecum, and that the due date was April 17, 2015.

35. Also on April 15, 2015, Fendler responded saying that he received the request for documents when he was out of the country on vacation. Whaley responded by e-mail on April 16, 2015, and explained that she was aware that Fendler had asserted that he was out of the country, and that the subpoena conference had been rescheduled for that reason. Whaley reiterated that the subpoena conference was still scheduled for April 21, 2015.

36. On April 16, 2015, Fendler responded to Whaley's e-mail with some, but not all information about Tagge and Intercounty. Fendler styled his e-mail as "1 of 2" but a second e-mail was never forthcoming.

37. On April 20, 2015, Whaley e-mailed Fendler inquiring regarding the missing second e-mail. She also reminded Fendler that the April 21, 2015 subpoena conference would proceed as scheduled. Fendler responded after the close of business on April 20, 2015, indicating that he had received no response to his earlier e-mail. Early on April 21, 2015, Whaley responded and informed Fendler that, indeed, she had responded.

38. On April 21, 2015 at 1:30 pm, Whaley, as the Director's appointee, attempted to hold the scheduled subpoena conference, but Fendler failed to appear as ordered.

39. No one appeared on April 21, 2015 at 1:30 pm for the scheduled subpoena conference on behalf of Northern Illinois.

40. The Division has received no further communication from Fendler or anyone purporting to be associated with Northern Illinois since the attempted subpoena conference on April 21, 2015.

CONCLUSIONS OF LAW

41. Section 375.141.1⁵ provides, in part:

⁵ This and all further statutory references are to RSMo Supp. 2013 unless otherwise noted.

The director may suspend, revoke, refuse to issue or refuse to renew an insurance producer license for any one or more of the following causes:

(2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state;

* * *

(4) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;

(5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

* * *

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

(9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory[.]

42. Section 375.141.3 provides as follows:

The license of a business entity licensed as an insurance producer may be suspended, revoked, renewal refused or an application may be refused if the director finds that a violation by an individual insurance producer was known or should have been known by one or more of the partners, officers or managers acting on behalf of the business entity and the violation was neither reported to the director nor corrective action taken.

43. Section 374.210.2(7) provides, in relevant part, as follows:

The director may also suspend, revoke or refuse any license...issued by the director to any person who does not appear or refuses to testify, file a statement, produce records, or does not obey a subpoena.

44. Title 20 CSR 100-4.100(2)(A) provides as follows:

Upon receipt of any inquiry from the division, every person shall mail to the division an adequate response to the inquiry within twenty (20)

days from the date the division mails the inquiry. An envelope's postmark shall determine the date of mailing. When the requested response is not produced by the person within twenty (20) days, this nonproduction shall be deemed a violation of this rule, unless the person can demonstrate reasonable justification for that delay.

45. Under Missouri law, when a letter is duly mailed by first class mail, there is a rebuttable presumption that the letter was delivered to the addressee in the due course of the mails. *Hughes v. Estes*, 793 S.W.2d 206, 209 (Mo. App. S.D. 1990).

46. The principal purpose of § 375.141 is not to punish licensees or applicants, but to protect the public. *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. E.D. 1984).

47. Northern Illinois' Renewal Application for a business entity insurance producer license may be refused under § 375.141.1(2) for violating an insurance regulation, 20 CSR 100-4.100(2)(A), by failing to timely and adequately respond to Division inquiries. Neither Fendler nor Northern Illinois responded to the Division's September 26, 2014 inquiry letter requesting a response to the Patel/SUJVL complaint in a timely way. Fendler and Northern Illinois have not provided reasonable justification for the delay. While Fendler offered some documentation in April 2015, it was late, in response to a subsequent subpoena duces tecum, and, in any event, incomplete. Further, neither Fendler nor Northern Illinois has ever responded to the April 1, 2015 Division inquiry letter regarding Greenberg's complaint, and neither has provided reasonable justification for the delay.

48. Northern Illinois' Renewal Application for a business entity insurance producer license may be refused under § 375.141.1(2) for violating an insurance law, § 374.210.2(7), because neither Fendler, owner and president of Northern Illinois and its designated responsible licensed producer, nor anyone else, provided the documents requested in the subpoenas duces tecum that the Department served on Fendler and Northern Illinois and, therefore, disobeyed said subpoena. Fendler produced some, but not all, documentation regarding Patel/SUJVL and that complaint, and provided no documents regarding Tagge, saying only that such documents had been provided to Kansas.

49. Northern Illinois' Renewal Application for a business entity insurance producer license may be refused under § 375.141.1(2) for violating an insurance law, § 374.210.2(7), because neither Fendler, owner and president of Northern Illinois and its designated responsible licensed producer, nor anyone else, appeared at the April 21, 2015 subpoena conference on behalf of Northern Illinois and, therefore, disobeyed the Director's subpoena. The Division initially sent a subpoena to Fendler and Northern Illinois which the company received, as evidenced by the signed green card. Indeed, Studer, a representative of Northern Illinois and Fendler's assistant, contacted the Department to explain that Fendler would be unavailable on April 14, 2015, the initial date for the subpoena conference, and to provide Fendler's schedule so that the date for subpoena conference could be changed. The Division accommodated the requested change and sent another subpoena with the revised, April 21,

2015 date; the signed green card was returned. After that, Fendler e-mailed Whaley numerous times regarding the documentation requested in the subpoena duces tecum. Whaley responded, making clear more than once that the subpoena conference remained scheduled for April 21, 2015. Neither Fendler, nor anyone else with Northern Illinois, contacted Whaley on the morning of April 21, 2015 to express any issue with the subpoena conference scheduled for 1:30 that afternoon or to request another continuance.

50. Northern Illinois' Renewal Application for a business entity insurance producer license may be refused under § 375.141.1(2) for violating any insurance laws or regulations because Northern Illinois violated Illinois insurance laws and rules in that Fendler and Northern Illinois:

- a. improperly charged service fees, in violation of 5/500-80(e)(1) and (2) of the Illinois Insurance Code (215 ILCS 5/500-80(e)(1) and (2));
- b. failed to label accounts into which premiums were deposited as "Premium Fund Trust Accounts," in violation of 50 Ill. Adm. Code 3113.40(b);
- c. deposited premiums into an operating account, in violation of 50 Ill. Adm. Code 3113.40(e);
- d. made non-premium debit withdrawals from a Premium Fund Trust Account, in violation of 50 Ill. Adm. Code 3113.40(i);
- e. failed to maintain a cash receipts register, in violation of 50 Ill. Adm. Code 3113.50(d);
- f. failed to match commission withdrawals to premium deposits and the consumers who paid them, and failed to support withdrawals with written records, in violation of 50 Ill. Adm. Code 3113.40(h)(3) and 3113.50(e)(6) and (7);
- g. failed to maintain a cash disbursement register and maintain a positive running balance, in violation of 50 Ill. Adm. Code 3113.50(h);
- h. failed to hold premiums in a fiduciary capacity, in violation of 50 Ill. Adm. Code 3113.40(j); and
- i. failed to forward premiums, in violation of Section 5/500-115(a) of the Illinois Insurance Code (215 ILCS 5/500-115(a)).

51. Each violation of an insurance law or rule constitutes separate and sufficient grounds to refuse to renew Northern Illinois' business entity insurance producer license under § 375.141.1(2).

52. Northern Illinois' Renewal Application for a business entity insurance producer license may be refused under § 375.141.1(4) for improperly withholding, misappropriating, and/or converting any moneys or properties received in the course of doing insurance business in Missouri in the following instances:

a. **Tagge/Ron Tagge Insurance Agency, Inc.** – On or about June 28, 2014, Tagge, on behalf of Intercounty, paid an \$8,500.00 down payment and Northern Illinois thereafter withdrew automatic premium installment payments from Tagge's account. Tagge indicated that he had been told that QBE Insurance was writing the policy, but he contacted QBE and the company indicated that the policy number that Northern Illinois had provided was a submission number, not a policy number, and that QBE had declined to quote the policy. Fendler and Northern Illinois retained the money from Tagge but did not obtain a policy for Tagge's client, Intercounty. Only after Tagge sent a demand letter in August 2014, did Fendler and Northern Illinois return \$14,119.34 to Tagge. Fendler and Northern Illinois improperly withheld and misappropriated the money from Tagge's account and never obtained a policy for Tagge's client, Intercounty.

b. **Patel/SUJVL** – At the end of August 2013, Fendler and Northern Illinois accepted payment of \$3,250.00 from Patel's agent, Gupta, for an insurance policy through USLI. Shortly thereafter, Fendler and Northern Illinois electronically debited SUJVL's bank account for another \$3,196.62, apparently for the USLI policy, but Northern Illinois never issued a policy. USLI then issued cancellation notices to SUJVL showing that no payments had ever been made to them. As Fendler and Northern Illinois received two payments from Patel and SUJVL for a total of more than \$6,000.00, and since USLI never received any such payments, Fendler and Northern Illinois misappropriated them. Fendler and Northern Illinois returned \$3,250.00 to Patel after USLI issued the cancellation notices, but Fendler and Northern Illinois had this money for months – from either late August or early September 2013 until mid-February 2014. Thus, while that money was returned, Fendler and Northern Illinois withheld, misappropriated, and/or converted it in the interim. Moreover, Fendler and Northern Illinois has improperly withheld, misappropriated, and/or converted the other \$3,196.62 payment that Patel and SUJVL made for insurance that they never received because that money has never been returned.

c. **Greenberg** – In January 2014, Greenberg paid a premium of \$12,837.00 to Northern Illinois for a Starr Indemnity & Liability Co. policy. Northern Illinois refunded \$3,211.00 in overpaid premium to Greenberg, but this did not go far enough; by Greenberg's calculation, Northern Illinois owed him another \$295.00 in overpaid premium. He requested that money from Northern Illinois, which Northern Illinois never paid. When Greenberg complained to the Illinois Department, Northern Illinois claimed that the disputed \$295.00 represented an inspection fee, but the application

for insurance mentioned no such fee, nor did the policy, and Greenberg never received any invoice for an inspection. Northern Illinois and Fendler improperly withheld, misappropriated, and/or converted Greenberg's \$295.00 because there was no inspection or corresponding fee based upon the insurance documents, so Northern Illinois and Fendler must have put that money to other uses, unrelated to Greenberg's policy.

d. **Le** – In May and June 2014, Le paid a total of \$19,400.56 to Northern Illinois for insurance with Hartford even though the premium was only \$13,951.00. Hartford indicated that it had only received two payments, for \$4,654.00 and \$1,284.21 for Le's policy, and after that Hartford cancelled the policy for non-payment, in October 2014. In February 2015, Northern Illinois returned \$6,861.79 to Le, but Northern Illinois has still retained Le's money – some intended to pay the balance of the premium to Hartford and some that Northern Illinois charged over and above the premium amount – for almost a year. Northern Illinois and Fendler have improperly withheld, misappropriated, and/or converted Le's money and used it for purposes other than Le's desired insurance coverage.

53. Northern Illinois' Renewal Application for a business entity insurance producer license may be refused under § 375.141.1(4) for improperly withholding, misappropriating, and/or converting any moneys or properties received in the course of doing insurance business in Illinois, because Fendler and Northern Illinois:

- a. had multiple deficiencies over many months in their Premium Fund Trust Account and often had significant negative balances in that account;
- b. failed, in at least two instances, to forward consumer premiums to insurance companies;
- c. withdrew a premium payment for a personal property policy that a consumer had never authorized, and only returned the money after several months; and
- d. Sam Patel and the other plaintiffs in *Shankar B. ("Sam") Patel d/b/a Economy Inn Motel, et al. v. Todd J. Fendler, Patty Studer, Susan K. Fendler, and Northern Illinois Insurance Agency, et al.*, United States District Court, Southern District of Illinois, Case No. 15-CV-366, allege that Fendler and Northern Illinois made unauthorized ACH debits from plaintiffs' accounts in order to pay for unauthorized policy renewals with Fendler and Northern Illinois. On information and belief, Fendler and Northern Illinois improperly withheld, misappropriated, and/or converted the money they debited, without permission, from plaintiffs' accounts, and used it for purposes other than to obtain insurance policies or policy renewals that plaintiffs neither desired nor authorized.

54. Each instance wherein Northern Illinois improperly withheld, misappropriated and/or converted moneys received in the course of doing insurance business constitutes separate and sufficient grounds to refuse to renew Northern Illinois' business entity producer license under § 375.141.1(4).
55. Northern Illinois' Renewal Application for a business entity insurance producer license may be refused under § 375.141.1(5) for intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance because Fendler and Northern Illinois misrepresented the terms of a workers compensation policy to an Illinois consumer. Fendler and Northern Illinois charged a consumer almost double what it paid to the insurance company for coverage for the consumer's employee, but then claimed falsely that there was a "minimum earned premium" for workers compensation policies and that the consumer's policy had to be rounded up to the minimum premium charge of \$1,700.00.
56. Northern Illinois' Renewal Application for a business entity insurance producer license may be refused under § 375.141.1(8) for demonstrating incompetence, untrustworthiness and/or financial irresponsibility in the conduct of business in this state, because Northern Illinois obtained a substantial premium from Tagge, on behalf of his client, Intercounty, then failed to obtain insurance for Intercounty, and then held onto the money for two months until Tagge threatened to contact authorities, at which point Northern Illinois returned it. Tagge's client was left uninsured for two months, and Northern Illinois retained someone else's money and failed to obtain the insurance for Tagge's client.
57. Northern Illinois' Renewal Application for a business entity insurance producer license may be refused under § 375.141.1(8) for demonstrating incompetence, untrustworthiness and/or financial irresponsibility in the conduct of business in this state, because Northern Illinois took Patel's money and obtained two policies instead of the desired one policy, but then failed to forward the money to the insurance company so that Patel's insurance was cancelled. Northern Illinois has still not returned over \$3,000.00 belonging to Patel, who was also left to contend with gaps in coverage (as did Tagge's client, Intercounty).
58. Northern Illinois' Renewal Application for a business entity insurance producer license may be refused under § 375.141.1(8) for demonstrating incompetence, untrustworthiness and/or financial irresponsibility in the conduct of business in this state, because while Northern Illinois returned some overpayment of premium to Greenberg, it has never returned \$295.00 in overpaid premium and when asked about it by the Illinois Department, it claimed it was an inspection fee, even though such fee was never mentioned in the insurance application or in the policy, and Northern Illinois never sent any invoice for inspection to Greenberg.
59. Northern Illinois' Renewal Application for a business entity insurance producer license may be refused under § 375.141.1(8) for demonstrating incompetence, untrustworthiness and/or financial irresponsibility in the conduct of business in this state,

because Le paid over \$19,000.00 to Northern Illinois when the insurance premium cost far less. Then, Northern Illinois failed to forward the full premium to the insurance company, Hartford. Northern Illinois eventually refunded some of the money to Le, but Northern Illinois still has a portion of Le's money that was supposed to be used to pay premium, and a portion of money that Northern Illinois overcharged Le and has never returned.

60. Northern Illinois' Renewal Application for a business entity insurance producer license may be refused under § 375.141.1(8) for using fraudulent and/or dishonest practices in the conduct of business in Missouri, because Northern Illinois, by its actions vis-à-vis Tagge and Intercounty, Patel, Greenberg, and Le, has established a pattern of fraudulently and dishonestly making unauthorized or excessive debits from consumer accounts that it then uses for non-insurance related purposes.

61. Northern Illinois' Renewal Application for a business entity insurance producer license may be refused under § 375.141.1(8) for using dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in the state of Illinois, because Northern Illinois:

- a. failed to match commission withdrawals to the premiums previously deposited and the consumers who paid those premiums;
- b. failed to maintain a cash disbursement register and a positive running balance;
- c. failed to hold money in a fiduciary capacity before forwarding to an insurance company;
- d. failed to forward premiums to an insurance company;
- e. submitted an unauthorized insurance application and withdrew premium from a customer's account;
- f. withdrew excessive premium from a customer's account and then claimed, falsely, that it was a "minimum earned premium;"
- g. provided an invalid certificate of liability insurance; and
- h. on information and belief, made fraudulent and unauthorized ACH debits from various individuals' accounts to pay for unauthorized policy renewals with Fendler and Northern Illinois. *See Shankar B. ("Sam") Patel, d/b/a Economy Inn Motel, et al. v. Todd J. Fendler, Patty Studer, Susan K. Fendler, and Northern Illinois Insurance Agency, et al.*, United States District Court, Southern District of Illinois, Case No. 15-CV-366.

62. Northern Illinois' Renewal Application for a business entity insurance producer license may be refused under § 375.141.1(9) because Northern Illinois has had an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, Illinois. The Director of the Illinois Department issued his Order of Revocation on July 14, 2014. *In the Matter of the Revocation of Licensing Authority of: Todd Fendler and Northern Illinois Ins. Agency, Inc.*, State of Illinois, Department of Insurance, Hearing No. 14-HR-0867 (currently set for hearing on May 19-21, 2015). While that Order of Revocation is stayed pending Fendler's and Northern Illinois' appeal, it is an order revoking a producer license nonetheless.

63. Northern Illinois' Renewal Application for a business entity insurance producer license may be refused for violating § 375.141.3, because Fendler violated an insurance regulation, 20 CSR 100-4.100(2)(A), and Fendler, as owner, President, and the designated responsible licensed producer for Northern Illinois, knew or should have known about the untimely and inadequate responses to Division inquiries, but neither Fendler nor Northern Illinois reported the violations to the Director or took corrective action.

64. Northern Illinois' Renewal Application for a business entity insurance producer license may be refused for violating § 375.141.3, because Fendler violated an insurance law, § 374.201.2(7), and Fendler, as owner, President, and the designated licensed responsible licensed producer for Northern Illinois, knew or should have known about the failure to obey the Director's subpoena duces tecum requiring production of documents and subpoena requiring testimony under oath, but neither Fendler nor Northern Illinois reported the violations to the Director or took corrective action.

65. Northern Illinois' Renewal Application for a business entity insurance producer license may be refused for violating § 375.141.3, because Fendler violated numerous Illinois insurance laws and rules, and Fendler, as owner, President, and the designated licensed responsible producer for Northern Illinois, knew or should have known about the violations of Illinois' laws and rules, but neither Fendler nor Northern Illinois reported the violations to the Director or took corrective action.

66. Each instance wherein Fendler committed a violation that he knew or should have known about, but neither Fendler nor Northern Illinois reported that violation to the Director or took corrective action constitutes separate and sufficient grounds to refuse to renew Northern Illinois' business entity insurance producer license under § 375.141.3.

67. The above described instances are grounds upon which the Director may refuse to renew Northern Illinois' business entity insurance producer license. Northern Illinois has consistently overcharged consumers for insurance premiums; failed to forward premiums to insurance companies in full or at all, resulting in consumers unknowingly having gaps in their insurance coverage; and failed to refund consumers' money when its improper financial practices were discovered. Northern Illinois and Fendler's behavior in this regard has spanned at least two states – Missouri and Illinois. Yet, in the face of these mounting

complaints, Northern Illinois has failed to timely or completely respond to inquiries from this state's insurance regulator. Finally, neither Fendler nor anyone else with Northern Illinois appeared for the subpoena conference that was rescheduled as a matter of grace and solely for Fendler's convenience.

68. The Director has considered Northern Illinois' history and all of the circumstances surrounding Northern Illinois' Renewal Application. Renewing Northern Illinois' business entity insurance producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse to renew Northern Illinois' business entity insurance producer license.

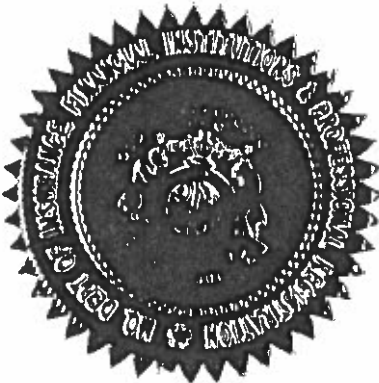
69. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the business entity insurance producer license renewal application of **Northern Illinois Insurance Agency, Inc.** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 1ST DAY OF MAY, 2015.




JOHN M. HUFF
DIRECTOR

NOTICE

TO: Renewal Applicant and any unnamed persons aggrieved by this Order:

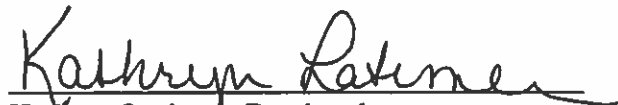
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send your complaint by registered or certified mail, it will not be considered filed until the Administrative Hearing Commission receives it.

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of May, 2015, a copy of the foregoing Order and Notice was served upon the Renewal Applicant in this matter by mailing it via the United States Postal Service, certified mail, with signature required, to the following address:

Northern Illinois Insurance Agency, Inc.
Todd Fendler, President
6090 Strathmoor Drive, Suite 3
Rockford, IL 61107

Tracking No. 1Z0R15W84298329397



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